

**IN THE DRAWINGS:**

The attached sheet of drawings includes changes to Figures 6 and 7. In Figure 6, previously omitted element 600 has been added. In Figure 7, previously omitted element 700 has been added.

**Attachment:        Replacement Sheets**

## REMARKS

This is intended as a full and complete response to the Office Action dated April 19, 2006, having a shortened statutory period for response set to expire on July 19, 2006. Claims 1-19 are pending in the application. Please reconsider the claims pending in the application for reasons discussed below.

### Drawings

The Examiner objected to the drawings under 37 C.F.R. § 1.83(a). In response, Applicant has amended Figure 6 to include the reference element 600 to indicate the trim circuit and Figure 7 to include the reference element 700 to indicate the rapid reversal circuit. Applicant respectfully request the objection to the drawings be removed.

### Claim Rejections Under 35 U.S.C. § 102(b)

The Examiner rejected claim 1 and 18 as being anticipated by *Castel* (U.S. Patent 5,660,532). In response, Applicant has amended claim 1. Additionally, Applicant has cancelled claim 18.

As amended, claim 1 includes the limitations of (i) a power fluid circuit for providing power fluid to and from the pair of fluid pumps, the power fluid circuit having a primary pump, wherein the pump comprises a pressure compensating pump chamber, (ii) an indexing circuit for regulating the fluid in the power fluid circuit by introducing and removing fluid in the power fluid circuit throughout a pump cycle to allow one fluid pump to reach a full extended position prior to other fluid pump reaching a retracted position and (iii) a trim circuit for providing fluid to the indexing circuit to ensure the pair of fluid pumps remain in substantially counter synchronous operation. *Castel* does not disclose these limitations. Rather, *Castel* merely discloses fluid circuit that controls a pair of jacks, whereby the fluid circuit includes a first generator to supply fluid during a compression-discharge phase, a second generator to supply fluid to retract the jacks and a third generator for controlling the distribution of hydraulic fluid to the jacks. There is no mention in *Castel* of a power fluid circuit having a primary pump, wherein the

pump comprises a pressure compensating pump chamber. Moreover, *Castel* does not disclose an indexing circuit configured to introduce and remove fluid in the power fluid circuit throughout a pump cycle to allow one fluid pump to reach a full extended position prior to other fluid pump reaching a retracted position as recited in the claims. In fact, *Castel* merely states that when one jack is completely retracted the other jack is completely extended. (See *Castel*, col. 7, lines 5-7)

As the foregoing illustrates, *Castel* fails to teach each and every one of the limitations of claim 1. This failure precludes *Castel* from anticipating claim 1. Therefore, Applicant respectfully requests the 102(b) rejection of claim 1 be removed and allowance of the claim. Additionally, claims 2-8 and 13-17 depend on claim 1 and these claims are allowable for at least the same reasons as claim 1.

#### Claim Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected claim 9 as being obvious over *Castel* in view of *Munzenmaier, et al.* (U.S. Patent 6,171,075). Additionally, the Examiner rejected claims 10-11 as being obvious over *Castel* in view of *Berke-Jorgensen* (U.S. Patent 6,126,413). Applicant respectfully traverses the rejection.

Claims 9-11 depends from claim 1. As set forth above, *Castel* fails to teach or suggest all the limitations in claim 1. Further, neither *Munzenmaier* nor *Berke-Jorgensen* cures the deficiencies of *Castel*. As a result, the combination of *Castel* and *Munzenmaier* or the combination of *Castel* and *Berke-Jorgensen* fails to render claims 9-11 obvious.

Furthermore, Applicant respectfully traverses the rejection on grounds that the Examiner has not established a *prima facie* case of obviousness. To establish *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. See *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Further, the teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, not in the applicants' disclosure. See M.P.E.P. § 2143, citing *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991). Still further, the examiner must *particularly* identify any suggestion, teaching or motivation from *within* the references to combine the references (emphasis added).

See In Re Dembiczak, 50 USPQ2d 1614 (Fed. Cir. 1999). The mere recitation of a combination of references does not amount to particularly identifying a suggestion, teaching, or a motivation to combine the references. Finally, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

As the foregoing illustrates, the combination of *Castel* and *Munzenmaier* or the combination of *Castel* and *Berke-Jorgensen* fail to render claims 9-11 obvious. Therefore, Applicant respectfully requests the 103(a) rejection of claims 9-11 be removed and the allowance of the claims.

### **New Claims**

New claims 20-24 have been added to claim aspects of the present invention. Applicant submits that no new matter has been added. Further, new claim 20 depends from claim 1 and this claim is allowable for at least the same reasons as claim 1. Additionally, Applicant believes that the references cited by the Examiner do not teach or suggest a fluid pumping system comprising a first and a second plunger, a pressure compensated fluid pump for providing power fluid to and from the plungers, an indexing pump configured to regulate the fluid in the pressure compensated fluid pump by introducing and removing fluid in the pressure compensated fluid pump throughout a pump cycle, wherein the pressure compensated fluid pump compensates for such introducing and removing, thereby allowing one plunger to reach a full extended position prior to other plunger reaching a retracted position and a rapid reversal circuit having at least one poppet valve and at least one control valve attached to each plunger, whereby the valves are configured to control the directional movement of each plunger during the pump cycle, as recited in new claim 21.

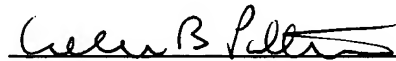
Furthermore, Applicant believes that the references cited by the Examiner do not teach or suggest a method for pumping a fluidstream comprising moving a pair fluid pumps between an extended position and a retracted position by utilizing a fluid power circuit, introducing and removing fluid in the power fluid circuit via a indexing circuit throughout a pump cycle to allow one fluid pump to reach a full extended position prior

to other fluid pump reaching the retracted position and introducing fluid into the indexing circuit via a trim circuit to maintain a substantially counter-synchronous relationship between the fluid pumps, as recited in new claims 22-24. Therefore, Applicant believes that new claims 20-24 are in condition for allowance and respectfully request the same.

#### Conclusion

Having addressed all issues set out in the office action, Applicant respectfully submits that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,



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William B. Patterson  
Registration No. 34,102  
PATTERSON & SHERIDAN, L.L.P.  
3040 Post Oak Blvd. Suite 1500  
Houston, TX 77056  
Telephone: (713) 623-4844  
Facsimile: (713) 623-4846  
Attorney for Applicant